

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Confirmation No. 7941

Application No.: 10/676,744
Filing Date: September 30, 2003
Appellants: Harold N. Rosenstock et al.
Group Art Unit: 2455
Examiner: David R. Lazaro
Title: METHOD AND APPARATUS FOR LIMITING STANDBY
SUBNET MANAGERS
Attorney Docket: 1400B-000028/US

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
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REPLY BRIEF

Sir:

This is in reply to the Examiner's Answer dated October 28, 2008.

I. The Examiner's Response to Argument A1 Confuses Selecting a Master Subnet Manager With Selecting a Set of Standby Subnet Managers as Claimed.

The Examiner argues, on pages 15-16 of the Examiner's Answer, that the selection of a master subnet manager disclosed in Frazier essentially equates with a selection of a set of standby subnet managers because those subnet managers that are not selected as the master subnet manager comprise the set of standby subnet managers. Appellants respectfully disagree.

As the Application makes clear, the selection of a master subnet manager is a separate and distinct step from the selection of the set of standby subnet managers. For example, at paragraph [0046], the specification states:

Once set of standby subnet managers 328 is selected, which standby subnet manager that assumes master subnet manager function 206 can be selected based on the master subnet manager function handover/failover mechanism described in INFINIBAND Architecture specification release 1.1 or later. Any other algorithm can be used to select which of set of standby subnet managers assume master subnet manager function and still be within the scope of the invention.

In other words, the Application provides for the master subnet manager to be selected from the set of standby subnet managers. If the Examiner is correct, i.e., that the selection of the master subnet manager of Frazier equates with the selection of the set of standby subnet managers as claimed, this portion of the specification would be rendered nonsensical.

To further illustrate this point, Appellants note that the specification and claims, e.g., claims 2, 16 and 30, provide for a "limit" to the number of possible standby subnet managers (See, e.g., Application at paragraph [0042]: "For example, and without limitation, a limit value 329 can be placed on the quantity of subnet managers in INFINIBAND architecture subnet 300 that can be selected to be in set of standby subnet managers 328."). If the Examiner's assertion is correct, i.e., that all of those subnet managers that are not selected to be master subnet manager comprise the set of standby subnet managers (See Examiner's Answer at pages 15-16), then there cannot be a "limit" to the number of subnet managers that may be selected to be within the set of standby subnet managers. In other words, the Examiner's assertion requires that each

subnet manager is either (1) the master subnet manager, or (2) within the set of standby subnet managers. As the specification, and claims 2, 16 and 30, make plain, this is not the case. Furthermore, such an interpretation renders claims 2, 16 and 30 meaningless and/or impossible.

II. The Examiner's Response to Argument A2 Fails to Support the Examiner's Assertions in the Rejection that Frazier Teaches "Providing a Subnet Manager Within Each of the Plurality of Nodes" and a "Subnet Manager for Each of the Plurality of Nodes" as Claimed.

In the rejection, the Examiner stated that "Frazier teaches ... providing a subnet manager within each of the plurality of nodes" in regard to claims 1 and 29, and "a subnet manager for each of the plurality of nodes" in regard to claim 15. Appellants respectfully disagree, for the reasons stated in the Appeal Brief dated September 28, 2008, which will not be repeated here. Appellants note, however, that the Examiner has now supported this assertion with a new argument, i.e., that the discussion in Frazier regarding "redundancies" suggests that "it would not be impractical and would in fact be reasonable to suggest that each node could be provided with a subnet manager" (See Examiner's Answer at page 17) (emphasis added).

The Examiner has still failed to point to any statement in Frazier that teaches the limitation of "providing a subnet manager within each of the plurality of nodes" in regard to claims 1 and 29, and "a subnet manager for each of the plurality of nodes" in regard to claim 15. Instead, the Examiner now quotes a portion of a sentence, taken out of context, and uses it to support his new assertion that it would not be "impractical" or "undesirable," and would "in fact be reasonable," to suggest that each node "could be provided" with a subnet manager. The complete sentence from which the Examiner paraphrases states: "These complex systems typically include redundancies, including backup subnet managers, which may take over when the primary subnet manager fails." (See Frazier at column 10, lines 15-17) (emphasis added). This sentence merely states the non-controversial declaration that complex systems typically include redundancies, which may include backup subnet managers. Appellants respectfully submit that this statement does not support the Examiner's assertion.

Appellants will not address the Examiner's statement regarding whether Frazier could be modified, as it is irrelevant to the issues at issue. The question is not whether each node "could be provided" with a subnet manager; it is whether Frazier actually teaches "providing a subnet manager within each of the plurality of nodes" as claimed. Based on the facts that Frazier (1) does not teach a subnet manager within each node as claimed, and (2) discloses that including "too many" standby subnet managers is undesirable (See Frazier at column 12, lines 19-20), Appellants respectfully submit that Frazier fails to teach the limitations of "providing a subnet manager within each of the plurality of nodes" in claims 1 and 29, and "a subnet manager for each of the plurality of nodes" in claim 15.

III. Conclusion

For the reasons set forth above and in Appellants Appeal Brief dated October 6, 2008, Appellants respectfully request that the Board direct the Examiner in charge of this examination to withdraw the rejections.

Respectfully submitted,

Dated: December 23, 2008

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